

## **PRAYER AND THE PUBLIC SCHOOLS: THE ISSUE IN HISTORICAL PERSPECTIVE AND IMPLICATIONS FOR RELIGIOUS EDUCATION TODAY**

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The controversy over the role of religion and public education has continued throughout the history of the United States and shows no signs of abating. Arrayed on various sides of the conflict are fundamentally different philosophies of education and sharply divided understandings of the relationship between Church and State in a modern democratic republic. Battles have been fought over prayer and Bible reading, textbooks and curriculum, religious holidays and religious symbols, evolution and creationism, released time inside and outside the school building. The landscape is littered with countless tracts, sermons, addresses, articles, books, laws, and court decisions. In every generation the contending forces have found new resolve, fresh recruits, and replenished ammunition.

This paper is an attempt to explain the persistence of the issue of school prayer and to provide a historical framework for understanding the changes in the issue over time. Why has the issue demonstrated such staying power? Whereas Bible reading has been the predominant subject through the years, why have the proposals to override the 1962-63 Supreme Court decisions been primarily prayer amendments? How has the issue of school prayer changed during the course of American history? Is the practice of prayer in the classroom as long-standing a custom or as widespread and universal as commonly assumed?

There is a large body of literature on the subject. In the nineteenth century much of it was polemical, revolving around

Protestant-Catholic battles over the King James Version of the Bible and the division of school funds. In the last two decades the discussion has centered around the legal issues and the interpretation of the U.S. Constitution. For example, in *Religion in the Public Schools: An Introduction*, Richard C. McMillan has intentionally chosen the legal frame of reference because "in a pluralistic society, given the idea of religious liberty to which the country is constitutionally dedicated, solutions that will protect the rights of all persons can be found only in a legal context."<sup>1</sup> One of the best historical studies is *Piety in the Public School* by Robert Michaelsen, but the author's main interest is the attempt in different generations to find a common religion for the public schools, whether the "common Christianity" of Horace Mann or the "common faith" of John Dewey.<sup>2</sup> A bibliography was prepared by Albert J. Menendez, *School Prayer and Other Religious Issues in American Public Education*, but of 1,566 entries only 12 are listed under "School Prayer: History," while there are 165 listed under "School Prayer in the Courts."<sup>3</sup> What is lacking, even in these 12 entries, is a systematic treatment of the subject in American educational history.

### *Persistence Of The Issue*

The issue of prayer in the public schools is one that will not go away. Since the rulings of the Supreme Court in 1962 and 1963, there have been many attempts by the Congress to amend the Constitution. The two most active leaders of this period of time were Representative Frank Becker of New York and Senator Everett Dirksen of Illinois. In 1966 the Senate lacked a two-thirds majority by nine votes, and in 1971 the House missed the two-thirds majority for an amendment by 23 votes. Undoubtedly, the best organized and most carefully orchestrated campaign was in March 1984, when 50 proamendment speakers kept the House of Representatives in a rare all-night session; when demonstrations, rallies, and prayer vigils were held at the Capitol and the Supreme Court building; when Pat Boone and other celebrities organized letter, postcard, and telephone drives; and when the Senate fi-

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<sup>1</sup> Richard C. McMillan, *Religion in the Public Schools: An Introduction* (Macon, Georgia: Mercer University Press, 1984).

<sup>2</sup> Robert Michaelsen, *Piety in the Public School* (New York: The Macmillan Co., 1970).

<sup>3</sup> Albert J. Menendez, *School Prayer and Other Religious Issues in American Public Education: A Bibliography* (New York: Garland Publishing, Inc., 1985).

nally voted on a prayer amendment, after two weeks of debate, which fell 11 votes short of the two-thirds majority required. Over 20 years after the Supreme Court decisions, the issue of school prayer is more controversial and politicized than ever before. Advocacy for an amendment was added to the platform of the Republican Party in 1980 and became part of the "social issues" agenda in the 97th and 98th Congress along with anti-abortion and anti-busing for school desegregation.

Conservative religious groups such as the National Association of Evangelicals, the re-named Moral Majority, and others have lobbied extensively for school prayer and have threatened retribution at the polls. Many Protestant and Jewish organizations are just as strongly opposed to it, along with the American Civil Liberties Union, People for the American Way, and Americans United for the Separation of Church and State. Fierce battles are being fought in the largest Protestant denomination, the Southern Baptist Convention, over the school prayer issue.

There are at least six factors that help to explain this persistence. The first is ideological. In its simplest terms the movement to "restore" prayer to the classroom is a struggle for control of the public schools of the country. This struggle is nothing new. In every generation a host of special interest groups has seen universal free education as a way of capturing the hearts and minds of the American people for a particular cause or ideology. The history of American education is full of efforts to influence classroom instruction, textbook publishing, and teacher education. Those eager to bring God and religion "back to the classroom" are seeking to rid the schools of what they perceive as a religion of secularism or secular humanism. These same individuals have a fervent, nostalgic longing for a "Christian America," God-fearing and law-abiding, and they feel that mandated or organized prayer is one way to reclaim it.

Closely related is the moral factor. People sense a loss of traditional values, a decline in discipline, a rise in crime and violence, equating these trends with the ejection of prayer and God from the schools. Moral education and character-building have always been tasks assigned to the schools; and at least since Horace Mann and the common school reform movement, there has been a healthy debate about the sources of morality and the relationship of religion to ethics, as far as American schools are concerned. Mann himself saw the schools as solving all the problems of society through moral instruction, but he was opposed to sectarian

religious teaching: that was the job of the church and Sunday school. Modern attempts to make prayer a formal part of the daily classroom routine have the danger of foreclosing the debate about moral education and of offering a simplistic solution to the problems of drug abuse, alcoholism, vandalism, and teenage pregnancy.

The third factor is civil-religious. The sociologist, Robert Bellah, propounded the view that "there actually exists alongside of and rather clearly differentiated from the churches an elaborate and well-institutionalized civil religion in America."<sup>4</sup> This religion has its creeds and dogmas, rituals, symbols, saints, holy days, and scriptures. G. K. Chesterton could observe that "America is the only nation in the world that is founded on a creed," and he called the United States "a nation with the soul of a church."<sup>5</sup> The public schools have been perceived as the primary institution for the practice and inculcation of this civil religion; therefore, a major reason for the outcry against the 1962 and 1963 decisions was that it seemed to be banished from the schools. Overlooked was the fact that in these same decisions the justices recommended the use of documents, addresses, anthems, and other literature in American history where faith in God is expressed.

A fourth factor is nationalism. Since World War II the United States has been locked in a struggle with the Soviet Union for economic, political, and military supremacy. In this battle with godless, atheistic Communism, it was essential to enlist God on the side of America. This helps to explain why, at the height of the cold war in the 1950s, "under God" was added to the pledge to the flag, and "In God we trust" was adopted as the official motto of the country. Not only is prayer essential to elevate morality and to maintain our civil religion, but it is a strategic weapon to use in our conflict with the USSR. This use or mis-use of God for reasons of statecraft and international competition is frightening at the very least.

The fifth factor is political. In the two decades since the Supreme Court decisions the American people have been regularly polled on their attitude toward school prayer. The Gallup Poll has shown consistently that about 80 percent of the people support school prayer and would favor an amendment to the Constitu-

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<sup>4</sup> Robert N. Bellah, "Civil Religion in America," *Daedalus* 96 (Winter 1967), p. 1.

<sup>5</sup> Sidney E. Mead, *The Nation with the Soul of a Church* (New York: Harper & Row, 1975), pp. 20, 48.

tion. Not only are these figures quoted extensively in the halls of Congress, but those running for office use them for political gain. One incumbent Republican senator, challenged by a more conservative opponent, announced the day before the primary that he would vote in favor of the prayer amendment: He won the primary. We live in a day of single-issue candidates and pressure groups, and school prayer persists as an attractive platform because there is so much political mileage to be gained from it.

A sixth and final factor is that of states' rights and local control. The Constitution left matters of education to the people and the states, and the states in turn have delegated much power to school districts and their boards of education. The First Amendment prohibited only the Congress from making laws relative to the establishment of religion, and it was not until 1940 that the Supreme Court used the 14th Amendment to interpret the religion clauses in a state case. Is it any wonder that people were stunned when a simple prayer written by the New York Board of Regents was declared unconstitutional or when in 1963 Bible readings and the Lord's Prayer were declared an establishment of religion. One of the most passionate arguments for a prayer amendment is that it will return policy and decision-making to the states and school districts. One hotly debated amendment on the floor of the Senate would have removed federal court jurisdiction over school prayer cases and, if passed, could have led to 50 different interpretations of the First Amendment.

In answer to the question of why there have been persistent attempts to pass a prayer amendment rather than a Bible reading amendment, it is clear that the devotional use of the Bible is too specific, too concrete, and that a movement in this direction would break down over which translation, which testament, which passages. Prayer has more symbolic power. It is like motherhood, the flag, and apple pie: Who could be against it? It becomes a convenient rallying point for all those who are critical of humanistic and secular trends in public education. And if anyone questions the power of symbols and their manipulation, a glance at the book *Symbolic Crusade* by Joseph Gusfield would be enlightening.<sup>6</sup>

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<sup>6</sup> Joseph Gusfield, *Symbolic Crusade: Status, Politics and the American Temperance Movement* (Urbana: University of Illinois Press, 1966).

### *A Historical Framework*

For a historical analysis of the school prayer issue, I suggest that we look at six periods of American history: 1) the colonial era; 2) the revolution era or early national period and decline of common schools; 3) the mid-nineteenth century and common school reform; 4) the late nineteenth century and the development of modern secular education; 5) the first half of the twentieth century and the era of state prayer and Bible laws; 6) the second half of the twentieth century and the era of U.S. Supreme Court decisions regarding prayer and Bible reading.

1. *Colonial Era.* School prayer was not an issue in the colonial period, since the public school, as we know it today, simply did not exist. Earlier historians like Ellwood Cubberly were fond of reciting the story of how the seeds of public schooling were planted in the seventeenth century and finally brought to glorious fruition in the nineteenth century.<sup>7</sup> Educational historiography has been flawed by a preoccupation with formal pedagogy and educational institutions and an attempt to find precursors of present forms in the past. Bernard Bailyn corrected these assumptions with an understanding of education "as the entire process by which a culture transmits itself across the generations." According to Bailyn, the most important agency in this process was the family, extended and formalized in apprenticeship and the local community. The church carried on a more explicit or formal educational function, but at the local level the church was coterminous with the community. In other words, the line between "private" and "public" was blurred. "The modern conception of public education," wrote Bailyn, "was unknown before the end of the eighteenth century."<sup>8</sup>

Churches were expected to start schools in order that everyone would be trained in literacy and therefore be able to read the Bible and not be "deluded by Satan." For example, the Congregational Church of Wilton, Connecticut, was organized in 1726 with five purposes: 1) to hold worship; 2) to recruit; 3) to train the militia; 4) to raise taxes; and 5) to educate all the children of the community. Schools in this early period were predominantly Protes-

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<sup>7</sup> Ellwood P. Cubberley, *Public Education in the United States* (Boston: Houghton Mifflin Co., 1919). See also Lawrence A. Cremin, *The Wonderful World of Ellwood Patterson Cubberley* (New York: Teachers College, Columbia University, 1965).

<sup>8</sup> Bernard Bailyn, *Education in the Forming of American Society* (New York: W. W. Norton & Co., 1960), pp. 14, 11.

tant in ethos and content, and it was common for the school day to include prayers, hymns, and Bible reading. Lawrence Cremin, in his *American Education: The Colonial Experience 1607-1783*, indicated that the rules and regulations of the Hopkins Grammar School in New Haven in 1684 were typical: "The master is instructed to begin each day with a short prayer and then to set his pupils in the schoolroom according to their degrees of learning."<sup>9</sup> In the more Anglican colony of Virginia the teachers of the Society for the Propagation of the Gospel were enjoined, among other things, to teach the Holy Scriptures, to catechize, and to lead pupils in morning and evening prayers.<sup>10</sup>

By the end of the colonial period schools had assumed a new importance, and education became more "deliberate, self-conscious and explicit."<sup>11</sup> Cremin distinguishes three general types of institution: "the English (or petty, or common) school; the Latin grammar school; and the academy."<sup>12</sup> However, there was another important development by the end of this period, namely, the growth of a diversity of religious groups. Among other things, this meant that sectarian religious teachings and practices in the common schools would not go unchallenged.

2. *Revolutionary Era or Early National Period.* School prayer continued in this period as a custom or tradition in the common schools, but with less frequency, support, and favor. It is generally recognized that at the end of the eighteenth century and the beginning of the nineteenth, there was a decline in religion. According to Sydney Ahlstrom, "The revolutionary era was a period of decline for American Christianity as a whole. The churches reached a lower ebb of vitality during the two decades after the end of hostilities than at any other time in the country's religious history."<sup>13</sup> The Great Awakening had run its course, and the war for independence had taken its toll on churches, ministers, and church membership. In addition, there was the growth of religious rationalism (Thomas Paine had his followers in the new nation), Enlightenment ideas, and deism. Another factor was the disestablishment of the churches and the First Amendment guar-

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<sup>9</sup> Lawrence A. Cremin, *American Education: The Colonial Experience 1607-1783* (New York: Harper & Row, 1970), p. 186.

<sup>10</sup> *Ibid.*, p. 343.

<sup>11</sup> Bernard Bailyn, *op. cit.*, p. 41.

<sup>12</sup> Lawrence Cremin, *op. cit.*, p. 500.

<sup>13</sup> Sydney E. Ahlstrom, *A Religious History of the American People* (New Haven: Yale University Press, 1972), p. 365.

antees of free exercise of religion. To those who claim that this was only to prevent a national church, the story is told of the Declaration of Religious Liberty in Virginia, supported by Madison and Jefferson, in opposition to Patrick Henry's bill to pay for Christian teachers in the schools.

There was also a decline in the common schools during this period. It is ironic that in this critical time of nation-building, with the need for an educated citizenry with republican virtues, education deteriorated. Horace Mann pointed out some reasons in the first issue of *The Common School Journal*, which he edited. Other causes and preoccupations had deflected interest in the schools, such as the revolutionary struggle, the fiscal condition of the new government, other philanthropic enterprises, and the attention given to material prosperity.<sup>14</sup> I believe that a major factor in this decline was the system of local control without any checks or balances. The new Constitution had left education to the people and the states. Proposals by Jefferson, Benjamin Rush, and others to organize state systems were not passed. Laws passed by state legislatures were not enforced. Local communities resisted the additional taxes and kept the decentralized district schools, resulting in a lack of supervision, accountability, financial support, and a great deal of public apathy and indifference. It is clear that, before the common school reform movement, the schoolhouses were deplorable and lacked equipment; classes were ungraded and crowded; teachers were untrained, ill-paid, and transient; libraries were unknown; and textbooks were lacking. Those who could afford it sent their children to an increasing number of private schools and academies.

Given these conditions, it is no wonder that religious instruction and religious exercises were haphazard, perfunctory, or neglected altogether. In his first annual report as Secretary of the Board in Connecticut in 1839, Henry Barnard wrote: "The whole field of moral education is almost abandoned," despite the fact that the Bible or New Testament was found in almost every school.<sup>15</sup> Barnard and other school reformers discovered that the Bible was used as a reading and spelling book and sometimes as a religious exercise at the opening of school. School visitors re-

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<sup>14</sup> Horace Mann, "Editorial," *The Common School Journal*, vol. 1, no. 1 (Nov. 1838), pp. 2-3.

<sup>15</sup> Henry Barnard, *First Annual Report of the Secretary of the Board* (Hartford: Case, Tiffany and Burnham, 1839), p. 42.



ported that in some districts there was the reciting of the Lord's Prayer and the Ten Commandments once a week, while others reported that there was prayer only when the visitors, especially clergy, were present to lead them. The purpose of education had shifted to training for morality, but the common schools were inadequate for the task.

3. *Mid-Nineteenth Century or Era of Common School Reform.* Carl Kaestle has pointed out in his writings and addresses that the traditional view of this period has emphasized the work of individuals like Mann and Barnard and has perpetuated the "great man" approach to history. In a presentation before the Connecticut Historical Society, Kaestle said

Where the conditions were right — in much of the Midwest and even in the upcountry non-plantation South — advocates of common school systems emerged. Though they often cited Yankee authorities and even invited Barnard and Mann to their communities to give advice, one can imagine that they would have invented a public school tradition on their own even if the New England model had not been available.<sup>16</sup>

Conditions were ripe for the reform of the common schools beginning in the 1830s. State systems of education were created; teachers institutes and normal schools were started; textbooks were written; and a vast network of publications, speakers' bureaus, and other resources was developed.

Parallel to the reforms in education and contributing to them was the revival of religion, often called the Second Great Awakening. In their book, *Managers of Virtue: Public School Leadership in America, 1820-1980*, David Tyack and Elisabeth Hansot have demonstrated that the religious revival in the 1800s and the millennial vision of the Protestant-republican ideology laid the foundation for public schools.<sup>17</sup> In two "Monographs in Christian Education," Robert Lynn and Will Kennedy showed that these schools were an important part of a dual Protestant strategy in education. The purpose of the public school was to teach morality and a common Protestant Christianity, while the Sunday school was

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<sup>16</sup> Carl Kaestle, "Yankee Educators to the Nation: A Reassessment," *To Enlighten, Correct and Form: Yankee Educators to the Nation* (West Hartford, CT: Noah Webster Foundation and Historical Society, 1986), p. 17.

<sup>17</sup> David Tyack and Elisabeth Hansot, *Managers of Virtue: Public School Leadership in America, 1820-1980* (New York: Basic Books, Inc., 1982), pp. 15-28.

developed to provide the more specific teachings of the different denominations.<sup>18</sup>

When Horace Mann became secretary of the newly created Board of Education in Massachusetts in 1837, sectarian religious doctrine was still being taught by teachers and visiting clergy, even though the state legislature had passed a law in 1827 prohibiting sectarian textbooks. In order to develop a school system that would be open to all students and supported by the taxes of all people, he had to work out a compromise, so that the schools would be neither sectarian on the one hand or "godless" on the other. His solution was to encourage the teaching of a common morality or natural religion and to promote the reading of the Bible "without comment." Mann could not recognize the sectarian nature of the King James Version of the Bible, which was objectionable to Catholics.

In his 12th and final report as secretary in 1848, he was proud of the fact that the Bible had been restored to the schools of the state. He was relatively quiet on the matter of prayer. On a trip to Europe in 1843, he visited some Catholic schools and wrote in his journal an unfavorable comment about "the number of prayers which the children are obliged to make."<sup>19</sup> In his book, *Public Schools and Moral Education*, Neil McCluskey wrote that for Mann, genuine religion consisted of love for humanity, the golden rule, and the social betterment of the race: "This meant *doing* for one's fellows rather than preoccupying one's self with private prayer and worship."<sup>20</sup>

Henry Barnard considered Mann his mentor, colleague, and confidant, and turned to him for advice on many problems, including religion in the schools. In a letter to Barnard on June 23, 1844, the older educator included this recommendation: "The other suggestion relates to a matter which has been of late exciting considerable interest in this State. It is that of the *neutrality* of schools between the different religious parties among us."<sup>21</sup>

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<sup>18</sup> Robert W. Lynn, *Protestant Strategies in Education* (New York: Association Press, 1964), and William B. Kennedy, *The Shaping of Protestant Education: An Interpretation of the Sunday School and the Development of Protestant Educational Strategy in the United States, 1789-1860* (New York: Association Press, 1966).

<sup>19</sup> Neil G. McCluskey, *Public Schools and Moral Education* (New York: Columbia University Press, 1958), p. 49.

<sup>20</sup> *Ibid.*, p. 2.

<sup>21</sup> Vincent P. Lannie, Editor, *Henry Barnard: American Educator* (New York: Teachers College Press, 1974), pp. 86-87.

I have underlined the word, *neutrality*, because it is a key concept in later discussion and court decisions. Just as nonsectarian striving did not deter Mann from the Protestant Bible, so the search for neutrality did not preclude the use of prayers and Protestant worship for Barnard. Paul Mattingly has shown that the early teachers institutes of Barnard were revival meetings: "Prayers and hymns not only were incorporated into the actual proceedings but usually began and concluded the main exercises and lectures of an institute."<sup>22</sup> In the *American Journal of Education*, which he edited for many years, Barnard published articles that included the answer to the question as to what the public school can do regarding Christianity: "It can, in many instances, with the universal consent of the community, affix a more decidedly religious character to the school duties of each day, by the observance of daily prayers."<sup>23</sup>

Barnard's successor as school commissioner in Rhode Island, E. R. Potter, dealt extensively with the problem of the Bible and prayer in the public schools in his 1853 and 1854 reports. Potter decided cases of objection to prayer on a voluntary basis; there would be no coercion; students who object could be excused; the right of conscience would be upheld. Yet, it was claimed "Religious exercises, if conducted in a really Christian spirit, would seldom be objected to. The Lord's Prayer, or one similar in substance, would probably never be objected to."<sup>24</sup>

By the 1840s, prayer and Bible reading had become the rule but also a bone of contention. As long as communities were predominantly or entirely Protestant, no objection was raised. However, the immigration of Irish and German Catholics, especially to urban centers, challenged Protestant hegemony in education. Meeting in Baltimore in 1840, the Fourth Provincial Council of Roman Catholics requested that parish priests resist Protestant prayers and readings from the Protestant Bible in public schools. Conflict erupted in New York City in the following years, and when prayers and the KJV of the Bible continued in use, Bishop John Hughes urged Catholics to attend parochial schools. Finally, in 1853 there was a ruling by the New York State Superintendent

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<sup>22</sup> Paul H. Mattingly, *The Classless Profession* (New York: New York University Press, 1975), p. 67.

<sup>23</sup> Henry Barnard, Editor, *Papers for the Teacher* (New York: F. C. Brownell and Hartford: F. B. Perkins, 1860), p. 8. (Reprinted from *American Journal of Education*.)

<sup>24</sup> E. R. Potter, *Report Upon Public Schools and Education in Rhode Island* (Providence: Knowles, Anthony & Co., 1855), pp. 12-13.

of Schools that prayer could not be mandated as a part of daily classroom activities, and that Catholic pupils could not be required to attend schools where the KJV Bible was used. The controversy between Protestants and Catholics became violent in Philadelphia, and people lost their lives. Homes and churches were burned. The stage had been set for a bitter "Bible war" and a change in policy by boards and courts.

4. *Late Nineteenth Century and Development of Modern Secular Education.* Whereas the "Bible Wars" in New York and Philadelphia pitted Protestants against Catholics, in Cincinnati, Ohio, a coalition was formed of Catholics, Jews, and Protestants to protest religious practices in the public schools. In 1869 the Board of Education voted to eliminate prayers, Bible reading, hymns, and other sectarian religion from classrooms, but the decision split the board and the city. It was appealed to the Superior Court where it was overturned and then to the Supreme Court of Ohio where it was upheld. It is worth noting that the dissenting vote in the Superior Court was cast by Judge Alphonso Taft (father of William Howard Taft, later President of the United States), who argued that in its attitude toward religion "the government is neutral."<sup>25</sup> The Ohio Supreme Court ruled that the Constitution of the State does not enjoin or require religious instruction, or the reading of religious books, in the public schools of the state.<sup>26</sup> Anson Phelps Stokes in his comprehensive work, *Church and State in the United States*, called this "one of the most important decisions in the relation between church and state in this country."<sup>27</sup>

A common practice in the nineteenth century in schools was to allow students to be excused if there was objection to prayer and Bible reading. It was felt that this practice protected the free expression of religion and the sensibilities of minority religious groups. However, in an important decision in 1910 the Illinois Supreme Court declared

The exclusion of a pupil from this part of the school exercise in which the rest of the school joins, separates him from his fellows, puts him in a class by himself, deprives him of his equality with the other pupils, subjects him to a religious stigma and places him at a disadvantage in

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<sup>25</sup> *The Bible in the Public Schools: Arguments in the Case of John D. Minor et al v. Board of Education* (Cincinnati: Robert Clarke & Co., 1870), p. 415.

<sup>26</sup> *Ibid.*, reprinted with appendix, Supreme Court decision of 1872, (New York: Da Capo Press, 1967), pp. 238-254.

<sup>27</sup> Anson Phelps Stokes, *Church and State in the United States*, Vol. II (New York: Harper & Brothers, 1950), p. 582.

the school, which was never contemplated. All this is because of his religious belief. If the instruction or exercises is such that certain of the pupils must be excused from it because it is hostile to their or their parents' religious beliefs, the said instruction or exercise is sectarian, and forbidden by the Constitution.<sup>28</sup>

The lawsuit was instituted by a group of taxpayers in District 24, who felt as Roman Catholics that they could not allow their children to be taught from a different version of the Bible or be led in a different version of the Lord's Prayer than that approved by the church. Since school attendance was compulsory and there existed no alternative school in the county, their children were virtually coerced into attending a place of worship contrary to their beliefs and conscience. The majority opinion sided with the parents and added that the state and school were civil or secular institutions, not religious, and it was not the duty of the state to teach religion. Practices that were struck down in the Illinois case were the reading of the Bible, recitation of the Lord's Prayer, and the singing of sacred hymns, for all of which students were required to assume a devotional attitude.

In 1903 in Nebraska the court ruled that Bible reading, prayers, and hymns were devotional exercises and, therefore, constituted sectarian instruction. Likewise, in 1890 the Wisconsin Supreme Court had ruled that such religious practices were illegal. The high courts in Louisiana, South Dakota, and Washington also decided against religious exercises. Courts in other states let the practices stand. In an Iowa case in 1884, the court refused to interfere with the custom of teachers to use the first few minutes of each school day to read from the Bible and lead in the Lord's Prayer and religious songs, as long as students were not required to be present during those exercises. The court declared in a 1904 Kansas case that nothing in the state constitution served to exclude the Bible or prohibit a teacher, for the purpose of quieting the pupils and preparing them for their regular lessons, from repeating the Lord's Prayer and the Twenty-Third Psalm, again under the condition that none of the pupils be required to participate. Similar decisions were made in Kentucky, Massachusetts, and Texas. All in all, eight courts declared Bible reading, prayer, and other religious exercises unconstitutional, while 14 courts declared them legal. In many states no action was taken either way.

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<sup>28</sup> Samuel W. Brown, *Secularization of American Education* (New York: Teachers College, Columbia, 1912), pp. 139-140.

In 1912 Samuel W. Brown wrote a book entitled *The Secularization of American Education*, in which he analyzed legislation, state constitutions, and court decisions in the nineteenth century, which removed church control and sectarian religion from the public schools. According to this author, the aims of education in the seventeenth and eighteenth centuries were largely religious and ecclesiastical, but by the twentieth century they had become civic. Laws were enacted in many states to prohibit sectarian religious instruction and sectarian textbooks in the schools. In many cases this took the form of a constitutional provision. Brown felt that this secularization of public education represented but one phase of the differentiation and separation of the ecclesiastical and the civil powers that had been going on in the country from the earliest years of its history.<sup>29</sup>

This process of secularization reached a peak during the career of William Torrey Harris (1835-1909). Long before he went to St. Louis as a teacher in 1858, the school system had decided not to hold religious exercises in the schools. Contrary to Horace Mann, Harris did not feel that the reading of the Bible without comment had a place in the classroom, and he rejected the idea of non-sectarian religious instruction. For Harris, "the reading of the Bible, the offering of prayers, the teaching of some simple catechism" were all particular forms of Protestantism and were therefore sectarian. It was not that Harris did not have a high regard for religion and the Bible; it was just that he felt that they belonged in the home and church where they could be taught with full respect for truth and integrity.<sup>30</sup> Besides serving as Superintendent of Schools in St. Louis for 12 years, he also was U.S. Commissioner of Education from 1889 to 1906, and in this capacity he did much to influence American schooling through his writing and lecturing.

Samuel Brown had argued that the secularization of the public schools had occurred by the time his study was published in 1912. In his book, *Piety in the Public School*, Robert Michaelsen takes issue with Brown on the basis that church religion was not eliminated from the schools, nor had "secularism" triumphed. Michaelsen admits, however, that it depends upon one's definition of "secular," and that in a formal or legal sense American education did become increasingly secularized in the nineteenth

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<sup>29</sup> *Ibid.*, see esp. pp. 155f.

<sup>30</sup> Neil G. McCluskey, *op. cit.*, pp. 166-171.

century. Even where the courts did allow Bible reading and other devotional practices, it was because they considered them non-sectarian and a traditional part of a secular program of education.<sup>31</sup> Prayer in the public schools as a policy was turned down by boards of education and courts in different parts of the country, but in other places it continued into the twentieth century.

**5. *First Half of the Twentieth Century and State Legislation.*** By the beginning of the twentieth century, many religious and educational leaders perceived that religion had been eliminated from the public schools. Ministers preached about the lack of prayer and Bible. Church assemblies, like the Presbyterians in 1890, voted to deplore the absence of the Bible. Many articles were written. Religious and educational associations took action, including the Religious Education Association, which was founded in 1903 explicitly for the purpose of promoting religious and moral education in elementary and secondary schools as well as other institutions. One of the most influential organizations in this period was the National Reform Association with its headquarters in Pittsburgh. In his doctoral dissertation, "The Holy Experiment and Education: The 1913 Public School Bible Reading Legislation in Pennsylvania," Jack Lowe has shown how this relatively small group was instrumental in passing a state law mandating prayer and Bible reading in the schools.<sup>32</sup> With the help of other organizations, this movement spread to other states.

Whereas only one state, Massachusetts, had a statute on the books before 1900, 11 states and the District of Columbia passed laws between 1910 and 1930 that made either morning prayer or Bible reading (or both) mandatory. In addition, six states approved laws that permitted Bible selections, and one state, Mississippi, added a provision to its State Constitution, which provided that the Bible could not be excluded from the public schools. According to Don Conway, who did a comprehensive study of the situation for the University of Chicago in 1956, there were also 19 states where Bible reading was permitted under general terms of silence (no statute) or by interpretation of the Attorney General. Bible reading was not permitted in 11 states by statute or under interpretation of the State Constitution. All the states requiring

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<sup>31</sup> Robert Michaelsen, *op. cit.*, pp. 109-110.

<sup>32</sup> John W. Lowe, "The Holy Experiment and Education: The 1913 Public School Bible Reading Legislation in Pennsylvania," PhD dissertation submitted to the faculty of Union Theological Seminary and Teachers College, Columbia University, 1986.

Bible (and prayer) were in the East and South, except for Idaho. All the states not permitting it were in the West or Mid-West except for New York and Louisiana.<sup>33</sup> These regional differences also showed up in the research of Richard Dierenfield in 1962.<sup>34</sup> With a crazy quilt of local district policies, state laws, contradictory court decisions, and legal opinions, the stage was set for the momentous and historic rulings by the U.S. Supreme Court in 1962 and 1963.

6. *Second Half of the Twentieth Century and U.S. Supreme Court Decisions.* In spite of the diversity of state court rulings, the U.S. Supreme Court consistently refused to accept jurisdiction in cases because of a lack of a substantial federal question. For example, a case was brought to the high court in 1931 from the State of Washington on the grounds that the Bible and religious teaching in public schools were contrary to the First and Fourteenth Amendments to the Constitution, but the justices refused to hear the case. The Supreme Court's decision in the 1940 case, *Cantwell v. Connecticut*, opened the way for future appeals on First Amendment grounds, since it ruled that free exercise of religion was one of the liberties falling within the due process clause of the 14th Amendment. In 1952 a New Jersey law providing for Bible reading in the schools was appealed to the Supreme Court on the basis that it violated the First Amendment clause prohibiting an establishment of religion. The majority of the justices decided that the opinion of the New Jersey court should stand, since no claims of injury were made and the appellant's child had graduated from high school before the case was appealed (*Doremus v. Board of Education*).

In the 1961-62 term the Court agreed to hear the *Engle v. Vitale* case from New York, and in the 1962-63 term they combined two cases, *Abington v. Schempp* from Pennsylvania and *Murray v. Curlett* from Maryland. In the former case the Court ruled "it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government." In the latter two cases the Court decided that Bible reading, even without comment, and prayers, including the Lord's Prayer, were sectarian religious ex-

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<sup>33</sup> Don Conway, *Summary: State Regulations Concerning Religion and Public Education*, unpublished report printed by the Committee on Religion and Public Education, National Council of Churches of Christ in the U.S.A., Chicago, Illinois, 1955.

<sup>34</sup> Richard B. Dierenfield, *Religion in American Public Schools* (Washington, D.C.: Public Affairs Press, 1962).



ercises and were unconstitutional. A provision for excusing or dismissing students did not mitigate the situation. The justices went out of their way to indicate that the rulings did not mean they were hostile toward religion or that they were rendering the schools "godless." The issue of prayer in public schools had changed considerably through the years from an inherited custom or tradition, often neglected, to a district rule, then to a board policy, sometimes upheld and sometimes overturned by the courts, then a state law, and finally a practice declared unconstitutional by the U.S. Supreme Court.

In summary, this historical review has shown that school prayer is neither as long-standing a custom or as widespread and universal as commonly assumed.

### *Conclusion*

There are at least three implications for religious education. The first is a challenge to churches and other religious institutions not to turn to the public schools for the teaching and practice of religion, but to strengthen and improve their methods and models of education. The second is the recognition that religion has not been excluded from public schools: The courts have encouraged or permitted the academic study of religion; the use of historic documents, addresses, and anthems that express religious faith; the practice of voluntary prayer or even an organized period of silence as long as prayer is not promoted; the use of songs and stories of religious holidays within an educational program; and the existence of extracurricular religious groups in non-instructional periods. The third is an acceptance of the invitation posed by Jack Seymour, Bob O'Gorman, and Chuck Foster to join in "the continuing venture to shape the church's education for this public role and responsibility," namely to reclaim its role in the education of the public.<sup>35</sup>

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<sup>35</sup> Jack L. Seymour, Robert T. O'Gorman and Charles R. Foster, *The Church in the Education of the Public* (Nashville: Abingdon Press, 1984), p. 153.